IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Bail Appl..No. 4069 of 2007()

CRMP.750/2007 of DISTRICT COURT, KALPETTA
CRIME NO. 106/07 OF THE VELLAMUNDA POLICE STATION

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PETITIONERS/ACCUSED

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1. M.K.FAIZAL, S/O.ANDURU, AGED 25 YEARS, MANDAMKANDI HOUSE,THARUVANA,PERUNANNOOR AMSOM.

2. M.SOOPY, S/O. MOIDU, AGED 26 YEARS, MULAVODAN HOUSE, 7/2, 7TH MILE, THARUVANA, PERUNANNOOR.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA, THROUGH THE SUB INSPECTOR OF POLICE, VELLAMUNDA POLICE STATION, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. P.N. SUKUMARAN.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 4069 OF 2007

Dated this the 5th day of July, 2007

ORDER

Application for regular bail. The petitioners are said to be accused 4 and 5 as the accused are ranked now. They face allegations for offences punishable, inter alia, under Secs.452, 326 and 307 read with Sec.149 of the IPC. The alleged incident took place on 1/5/07. The petitioners were allegedly members of an unlawful assembly of persons, who in prosecution of their common object, allegedly entered the house of the de facto complainant to cause the death of a person employed by the de facto complainant there. It is the case of the prosecution that the petitioners are actuated by the religious bigotry and that the said employee of the de facto complainant happened to be a Hindu by religion. The accused persons did not allegedly relish the presence of a Hindu person

being employed in a Muslim household and that is why they allegedly unleashed the attack. A crime has been registered. The petitioners are not named in the F.I.R. In the course of investigation, their complicity has been ascertained. They were arrested on 12/6/07. They continue in custody from the date of their arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. The petitioners are innocent. Vague allegations are raised against the petitioners. In these circumstances, it is prayed that the petitioners, who remain in custody from 12/6/07, may now be enlarged on bail. It is further pointed out that another Bench of this Court, as per the order dated 25/5/07, has already directed the release of the five co-accused on bail subject to appropriate conditions.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that considering the nature and gravity of the allegations, stage of the investigation and the possible deleterious impact which the early release of the petitioners is likely to create on the investigation in this crime and the law and order situation in general, the petitioners may not be enlarged on bail. The co-accused, who were released on bail, had spent a long period of time from 4/5/07,

and that is why they were directed to be released on bail with effect from 11/6/07, points out the learned Public Prosecutor.

4. I am satisfied that there is merit in the opposition by the learned Public Prosecutor and that the petitioners cannot be enlarged on bail at this early stage. In coming to this conclusion, I have taken into consideration the totality of relevant circumstances including the nature and gravity of the allegations, the depravity of mind which every member of a secular polity is bound to take serious note of as also the stage of investigation in this crime.

5. In the result, this petition is dismissed. But I may hasten to observe that the petitioner shall be at liberty to move this Court again for bail at a later stage of the investigation – not, at any rate, prior to 12/7/07. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge